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Via ECF

Hon. Leslie G. Foschio
U.S. Magistrate Judge
U.S. District Court, Western District of New York
2 Niagara Square
Buffalo, NY 14202

Re: Harriger v. Dunbar
Case No. 1:18-cv-00504

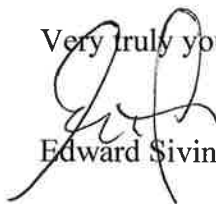
Your Honor:

The undersigned represents plaintiff in the above matter, which is an action pursuant to 42 U.S.C. § 1983 to recover damages in connection with an incident at Attica Correctional Facility wherein plaintiff alleges, *inter alia*, that he was subjected to a use of excessive force by defendant in violation of plaintiff's Eighth Amendment right to be free from cruel and unusual punishment. I write on behalf of both parties to request that the initial case management conference, currently scheduled for September 28, 2021, be adjourned *sine die* pending service by defense counsel of a formal statement noting the death of the defendant and a subsequent substitution of a representative of defendant's estate.

On July 26, 2021, defense counsel Cheryl Meyers Buth advised me that she heard defendant had passed away. To date, however, I have not received a copy of a Death Certificate, a "statement noting the death" as set forth in Fed. R. Civ. P. 25, or information regarding a representative of defendant's state who can be substituted in this matter. I am advised by Ms. Buth that she is attempting to obtain this information for me. In the meantime, the parties request that the September 28, 2021 conference be adjourned *sine die*.

Thank you.

Very truly yours,



Edward Sivin

Cc: defense counsel (via ECF)